

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER

UNITED STATES OF AMERICA)
) Case No. 4:21-cr-022-03
v.)
) Judge Travis R. McDonough
)
CORY SMITH) Magistrate Judge Susan K. Lee
)

ORDER

Magistrate Judge Susan K. Lee filed a report and recommendation recommending that the Court: (1) grant Defendant's motion to withdraw his not guilty plea as to Count Two of the eight-count Indictment; (2) accept Defendant's guilty plea to the lesser included offense of the charge in Count Two of the Indictment, that is, possession with intent to distribute methamphetamine (Actual) (aiding and abetting) in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C), and 18 U.S.C. §§ 2; (3) adjudicate Defendant guilty of the lesser included offense of the charge in Count Two of the Indictment, that is, that is, possession with intent to distribute methamphetamine (Actual) (aiding and abetting) in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C), and 18 U.S.C. §§ 2; (4) defer a decision on whether to accept the plea agreement (Doc. 132) until sentencing; and (5) find Defendant shall remain in custody until sentencing in this matter (Doc. 160). Neither party filed a timely objection to the report and recommendation. After reviewing the record, the Court agrees with Magistrate Judge Lee's report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's report and recommendation (Doc. 160) pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

1. Defendant's motion to withdraw his not guilty plea to Count Two of the eight-count Indictment is **GRANTED**;
2. Defendant's plea of guilty to the lesser included offense of the charge in Count Two of the Indictment, that is, possession with intent to distribute methamphetamine (Actual) (aiding and abetting) in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C), and 18 U.S.C. §§ 2 is **ACCEPTED**;
3. Defendant is hereby **ADJUDGED** guilty of the lesser included offense of the charge in Count Two of the Indictment, that is, possession with intent to distribute methamphetamine (Actual) (aiding and abetting) in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C), and 18 U.S.C. §§ 2;
4. A decision on whether to accept the plea agreement is **DEFERRED** until sentencing; and
5. Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **June 10, 2022 at 2:00 p.m. [EASTERN]** before the undersigned.

SO ORDERED.

/s/Travis R. McDonough

TRAVIS R. MCDONOUGH
UNITED STATES DISTRICT JUDGE